IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2906 of 2007()

C.R.NO.61/2007 OF THIRUVALLA EXCISE RANGE

PETITIONER: 2ND ACCUSED

AJEESH KUMAR, S/O SADASHIVAN,
RADHANILAYAM, KAVIYOOR,
THIRUVALLA.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

3. ASST. EXCISE COMMISSIONER,
PATHANAMTHITTA.

4. THE CIRCLE INSPECTOR OF EXCISE,
THIRUVALLA.

5. THE CIRCLE INSPECTOR OF EXCISE,
EE & ANSS, PATHANAMTHITTA.

6. EXCISE INSPECTOR,
THIRUVALLA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2906 of 2007

Dated this the 18th day of September, 2007

ORDER

Against the petitioner, Crime No.61 of 2007 of Thiruvalla Excise Range has been registered. The crux of the allegations in the said crime is that in a toddy shop, arrack was kept with questionable motives. The crime has been registered for offences punishable, inter alia, under Section 8 of the Kerala Abkari Act.

2. Investigation is in progress. The petitioner has now come before this Court with a prayer that powers under Section 482 Cr.P.C may be invoked to quash all further proceedings in pursuance of Crime No.61 of 2007.

3. What is the reason ? The learned counsel for the petitioner contends that the article seized is not arrack at all. In support of this contention, he has taken me through the recitals in Annexure-3 seizure mahazar. The learned counsel for the petitioner contends that when a sample of liquor is seized from the toddy shop, a crime cannot be registered without and before obtaining the chemical examiner's report under the relevant rule. In these circumstances, the learned counsel for the petitioner prays that all further proceedings in pursuance of Crime No.61 of 2007 may be quashed or in the

alternative it may be kept pending till the chemical examiner's report is received. The learned counsel for the petitioner contends that the registration of the crime and further proceedings in investigation are likely to materially affect the plight of the petitioner as the toddy shop licence is liable to be cancelled and proceedings have already been initiated against the petitioner on the ground that a crime has been registered.

4. Powers under Section 482 Cr.P.C are to be invoked sparingly and in exceptional cases in aid of justice. Of course, it is trite by now that such powers can, in an appropriate case, extend to the power to quash any proceedings initiated against the accused. But the Court must be satisfied that there are sufficient and satisfactory reasons in the interests of justice to invoke such powers.

5. At this early stage of investigation, I shall carefully avoid any detailed discussion about the acceptability of the allegations or the credibility of the data collected. Annexure-3 seizure mahazar, according to me, clearly shows that what was found available in the toddy shop and seized is only arrack, though it is stated that it is mixed with some other liquid also. In any view of the matter, I am not persuaded to agree that the powers under Section 482 Cr.P.C can or ought to be invoked to interfere with the progress of the proceedings

in pursuance of Crime No.61 of 2007 registered at the Thiruvalla Excise Range.

6. This Crl.M.C is, in these circumstances, dismissed. I may hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions later in the prosecution, if any, initiated against him.

(R.BASANT, JUDGE)

rtr/-